

# **BOARD OF DESIGN REVIEW MINUTES**

**November 15, 2001**

**CALL TO ORDER:** Chairman Walter Lemon III called the meeting to order at 6:30 p.m. in the Beaverton City Hall Council Chambers at 4755 SW Griffith Drive

**ROLL CALL:** Present were Chairman Walter Lemon III; Board Members Hal Beighley, Monty Edberg, Ashetra Prentice and Stewart Straus. Board Members Anissa Crane and Ronald Nardoza were excused.

Associate Planner Scott Whyte, Associate Planner Tyler Ryerson, Senior Transportation Planner Don Gustafson, City Engineer Jim Brink and Recording Secretary Sandra Pearson represented staff.

## **VISITORS:**

Chairman Lemon read the format for the meeting and asked if any member of the audience wished to address the Board on any non-agenda item. There was no response.

## **OLD BUSINESS:**

Chairman Lemon mentioned that he had received a telephone call within the last week from Barbara Hehmanek, who is affiliated with Washington County, adding that his wife had taken the call and he had not personally spoken with Ms. Hehmanek. He noted that she had followed up her telephone call with a letter from Washington County Commissioner Dick Schouten, dated November 13, 2001, observing that copies have been distributed, as necessary.

## **CONTINUANCES:**

Chairman Lemon opened the Public Hearing and read the format of the hearing. There were no disqualifications of Board Members. No one in the audience challenged the right of any Board Member to hear any agenda items or participate in the hearing or requested that the hearing be postponed to a later date. He asked if there were any ex parte contact, conflict of interest or disqualifications in any of the hearings on the agenda.

**A. BDR 2001-0124 -- TRUAX GASOLINE SERVICE STATION AT 14976 SW WALKER ROAD TYPE 3 DESIGN REVIEW**

(Continuance from October 25, 2001)

This request is for Design Review approval for the construction of a retail gasoline service station, including the construction of three service station islands, a central kiosk, a trash enclosure, a 400 square foot office building, parking and associated landscaping. The development proposal is located at 14976 SW Walker Road, and is more specifically described on Washington County Assessor's Map 1S1-05AD, Tax Lot 6700. While most of the site is zoned Neighborhood Service Center (NS), approximately ¼ of the site is zoned Urban Medium Density R-2 Development of the proposed service station would be located on that portion of the site zoned NS. A decision for action on the proposed development shall be based upon the approval criteria listed in Section 40.10.15.3.C.

Associate Planner Scott Whyte introduced Transportation Planner Don Gustafson, presented the Staff Report, described the proposal and noted that the hearing for this item opened on October 25, 2001 and was continued to allow the applicant the opportunity to address certain issues, identified as concerns by the Board. He summarized these items for Board consideration.

Mr. Whyte mentioned that the applicant has submitted the revised plan set, as requested, adding that this document is reflective of what had been requested by the Board. He referred to two letters from the applicant, the first of which requests reconsideration of the pedestrian pathway through the site, as required by the Facilities Review Committee; and the second requesting a reduced landscape planter area along the north property line, as discussed with staff. He pointed out that Condition of Approval No. C6 with respect to the walkway has not been changed, noting that the Development Code does not allow the Board to modify any recommendation of the Facilities Review Committee that reflects technical requirements or conditions set forth in provision of City Code or State Law without first receiving a full report on the legal and technical implications of changing the requirement, adding that Mr. Gustafson would be addressing some of these technical implications. Referring to the second letter with regard to the landscape planter issue, he noted that the width of the planter is ten feet and complies with the Conditional Use Permit (CUP) condition for a ten-foot planter width. He expressed concern with the fact that the applicant would be placing the wall slightly short of the property line, approximately two feet from the north property line, adding that this might shrink the width of that planter to some degree. He observed that staff is okay with that, provided that there is sufficient space for tree roots, adding that this has been addressed within the Staff Report. He referred to the Staff Memorandum, dated November 8, 2001, which includes some revised findings to the Staff Report dated October 17, 2001, which recommended denial, adding that Findings for Denial A, G and H have been revised for approval. Concluding, he mentioned that the color and materials board, as well as the elevation plan of the Murray/Scholls Ferry Road Chevron

Station, which is very similar, has been submitted, and offered to respond to questions or comments.

Senior Transportation Planner Don Gustafson described the applicable approval criteria and technical standards for the application and briefly discussed the rationale and enforcement of these requirements. He referred to applicable sections of the Development Code, explaining how these specific requirements relate to this particular application, and offered to respond to any questions or comments.

Mr. Straus requested clarification as to how a project, such as the apartments, would be able to install a walkway to a certain location under the assumption that an adjoining property owner would be capable of accommodating any future extensions without creating some adverse effect upon his property. He pointed out that Bonneville Power Administration (BPA) has a large right-of-way to the east of this site, adding that certain agencies, such as Tualatin Hills Park and Recreation District (THPRD), have installed pedestrian pathways throughout the existing BPA easements. He expressed his opinion that this is creating a hardship for the owner of this property by requiring him to follow up on some previously determined condition on an adjoining parcel to determine what he is able to do with a portion of his property.

Observing that he had not been with the City of Beaverton when the apartment project was approved, Mr. Gustafson pointed out that the City of Beaverton had likely requested this pedestrian pathway with anticipation as to a future connection to the south when the subject property develops at a future date.

Mr. Straus assured Mr. Gustafson that he understands this issue, noting that there is a huge easement immediately available to the east of both of these sites, both of which could easily be utilized for this specific purpose and are actually being used for this purpose elsewhere in the City of Beaverton. He expressed his opinion that this walkway on the parcel should not obligate this property owner to provide a pedestrian walkway on his own property, emphasizing that this property owner did not have any opportunity to participate in the original negotiation.

Mr. Gustafson pointed out that staff is attempting to provide a continuous pathway system and noted that the pathway could be shifted within the development.

Mr. Straus reiterated his objection to requiring a property owner to accommodate what had been determined by the actions of another property owner without the benefit of being allowed to provide any input.

Mr. Gustafson stated that notification is mailed out for this specific purpose – to allow any affected property owners an opportunity to express their objections or concerns through the Public Hearing process.

Observing that the City of Beaverton wants an easement, Chairman Lemon pointed out that an applicant should have an opportunity to suggest that this easement be relocated to the far east end of the property. He expressed concern with providing a walkway leading to an area where children play, emphasizing that this area is not entirely safe, adding that a property owner could feasibly be sued for providing an attractive nuisance.

Mr. Gustafson stated that even without the walkway, the approval of this project would not create any changes in the apartment area.

**APPLICANT:**

**GREG KURAHASHI**, of *Kurahashi & Associates, Inc.*, representing *Merritt W. Truax, Inc.*, observed that a paint chip representing the color of the stone has been provided.

**TAD TRUAX**, representing *Merritt W. Truax, Inc.*, introduced himself.

Mr. Kurahashi discussed issues with the Staff Report, observing that the applicant is in general agreement with everything that has been stated regarding the landscaping and other issues, adding that the actual foundation of the north wall occurs every fifteen feet, with an approximately two-foot diameter casing that goes around to a pier, the depth of which will be determined by what is necessary to support the wall. He pointed out that the trees, which have been located in the middle of the two piers, will have the ability to grow in both directions and that the root systems would not be impacted. Observing that he would like to address two other issues, he mentioned that the applicant has selected a slate-type low luster gloss gray (C60-33) color for the wall.

Chairman Lemon requested that Mr. Kurahashi circle the selected color on the color board and submit the information for the record.

Mr. Kurahashi pointed out that all of the remaining items addressed by staff and included within the drawings are appropriate, adding that the applicant is pleased with staff's comments regarding these issues. He referred to the issue of the pathway, and requested clarification of where the Master Plan for pathways now shows the path to be going through that area or whether there is a specific location or approximate location for the regional path to go through.

Mr. Gustafson stated that this location is not specifically identified on the connectivity plan, adding that while the major trails are identified, many minor connections are not included.

Mr. Kurahashi mentioned that he would like to qualify some of the issues regarding pathways and locations, observing that the Metro standards that generated the 330-foot distance to create connectivity was actually developed because cars and individuals moving in those directions would not adversely load

major streets in that area if adequate connections are available. He pointed out that the Traffic Engineer had provided as many connections as possible to the major street patterns to allow for appropriate distribution of intersections for connection to major streets. He mentioned that 650 to 1000 feet apart would create congestion that would cause not only livability issues, but also major problems with traffic at those points. He explained that the points of connectivity provide the basis on which a decision should be made with regard to distance apart, emphasizing that it does not apply in this case because the location of that connection happens to cross an arterial street, which provides both a safety barrier and a connectivity barrier that can not be addressed without a future pedestrian crossing. Emphasizing the necessity of providing a pedestrian crossing in this area at some future point, he suggested that this crossing should be located on either side of the BPA lines. He pointed out that because of the building located right next to the BPA right-of-way, connectivity for this pathway would not work very well in this area at this time. Concluding, he offered to respond to any questions or comments.

Mr. Truax mentioned that he had addressed his concerns with the pathway in his letter, emphasizing that due to liability issues, he is particularly concerned with the accessibility to the parking and playground areas.

#### **PUBLIC TESTIMONY:**

**JENNA GRIBBEN**, representing Ken Randall, the owner of Walker Square Apartments, noted that he had requested she make several comments regarding the north wall and where the Austrian Pines would be located. She mentioned that Mr. Walker is concerned with the rate of growth for these trees, particularly how quickly and adequately light, sound and activity would be screened.

Mr. Beighley advised Ms. Gribben that the Austrian Pine would grow at an annual rate of six to eight inches.

Observing that Mr. Randall is in support of eliminating the pathway for the same reasons as Mr. Truax, Ms. Gribben commented that because children are playing in this area, it would not be safe to provide a thoroughfare where other people could easily access the area. She pointed out that while he is not in favor of relinquishing his easement on the east side, he is opposed to the path.

On question, there was no further testimony from the public and staff had no additional comments.

The public portion of the Public Hearing was closed.

Mr. Straus **MOVED** and Mr. Beighley **SECONDED** a motion for the approval of BDR 2001-0124 – Truax Gasoline Service Station at 14976 SW Walker Road Type 3 Design Review, based upon the testimony, reports and exhibits presented

during the public hearings on the matter and upon the background facts, findings and conclusions found in the Staff Report dated October 17, 2001, and Staff Memorandum dated November 8, 2001, including recommended Conditions of Approval Nos. 1 through 20, and additional Conditions of Approval, as follows:

21. The wall shall be painted with behr slate gray C-60 low luster gloss paint; and
22. The walkway and easement for the walkway shown on drawing shall be deleted.

Mr. Beighley clarified that Condition of Approval No. 17 has been revised to reflect that the six feet Austrian Pines had been revised to eight feet. He also mentioned that the Board had opted for C-3 paint, rather than the gloss.

Mr. Kurahashi stated that the applicant is matching the color, rather than using the behr slate paint, emphasizing that this product consists of a special stain that will not peel and would achieve 98% of the color, without actually using the paint.

Mr. Straus modified the motion to provide that Condition of Approval No. 21 be revised, as follows:

21. The wall shall be ~~painted~~ **stained** with **color matching** behr slate gray C-60**33** low luster gloss paint.

On question, Mr. Beighley indicated that his second of the motion stands, as modified.

The question was called and the motion, as modified, **CARRIED**, unanimously.

7:25 p.m. – Mr. Whyte left.

## **NEW BUSINESS:**

### **PUBLIC HEARINGS:**

#### **A. HART ROAD STREET IMPROVEMENT**

The following land use applications have been submitted for the street improvements along SW Hart Road and SW 155<sup>th</sup> Avenue. The development proposal is located on SW Hart Road east of Forest Drive to SW 165<sup>th</sup> Avenue and is located within a portion of SW 155<sup>th</sup> Avenue from SW Middleton Court to SW Siletz Court.

##### **1. BDR2001-0094 – TYPE 3 DESIGN REVIEW**

This request is for Design Review approval for proposed street improvements, including the addition of concrete curbs and gutters, sidewalks, street paving, the addition of two five foot bike lanes, street

lighting, landscaping, and irrigation. A decision for action on the proposed development shall be based upon the approval criteria listed in Section 40.10.15.3.C.

**2. TPP2001-0007 – TREE PRESERVATION PLAN (Significant Trees)**

This request is for Design Review approval for proposed construction activity within the boundaries of a Significant Tree Grove. A decision for action on the proposed development shall be based upon the approval criteria listed in Section 40.10.15.3.C.

**3. VAR2001-0008 – DESIGN VARIANCE**

This request is for Design Variance approval to vary from the City standards regarding undergrounding private utilities. A decision for action on the proposed development shall be based upon the approval criteria listed in Section 40.80.15.3.C.

Observing that a letter from Gary Bliss, dated November 13, 2001, has just become available, Chairman Lemon called a recess from 7:27 p.m. until 7:32 p.m. to allow the members of the Board adequate time to review this information.

Associate Planner Tyler Ryerson presented the Staff Reports and described the numerous road alignments, various alternatives, significant tree inventory and the undergrounding of utilities hardship requirements associated with these applications. Observing that the proposed improvements to SW Hart Road would meet the City of Beaverton's functional classification plan, as a collector street, he stated that the applicant, the Project Advisory Committee and various other groups and organizations all participated in the design of a street improvement that reflect a design which meets the City's collector standards of vehicle lane width, turn lane, bicycling, planter strip and sidewalk. He further explained that minor street design modifications allowing for variations to the standard City collector street cross section have been proposed and approved by the Facilities Review Committee. He pointed out that the design modification would allow for a pedestrian/bicyclist/vehicle-friendly roadway while providing for opportunities to save existing vegetation and add additional vegetation in the median islands. He mentioned that the street improvement would allow for a friendlier pedestrian roadway as the use of raised landscape medians with periodic pedestrian crossings through the median areas would offer safer refuge. He pointed out that acorn-style streetlight fixtures directed to the street and sidewalk would bring a residential scale to the street, adding that although there will be no new bus turnouts, there will be new bus stop locations, which would provide alternative transportation opportunities as well as safer access to these locations. He explained that a photo radar parking pad and median areas would provide major traffic calming throughout the project area, adding that vegetative screening near residences, street landscaping and street tree canopy would soften the street impacts while providing for sound absorption around the street. Pointing out that the existing street does not provide sidewalks, bicycle lanes, turn lanes or

roadway shoulders, adding that the proposal also includes native vegetative materials along the improvements east of 155<sup>th</sup> Avenue where the Lowami, Hart Woods and Vale Parks developments are located, as well as ornamental plantings west of 155<sup>th</sup> Avenue.

Referring to the Summer Crest Shopping Center on the west side of the project, Mr. Ryerson noted that while this shopping center would lose four parking spaces, they would continue to provide the minimum number of parking spaces required for the site. He clarified that the loss of these parking spaces is due to the tapering of a corner at 165<sup>th</sup> Avenue, adding that a new trash enclosure would be constructed at Summer Crest. He stated that landscaping includes proposed street trees and vegetation along the proposed street improvements of planter strips, including raised medians along areas outside of the sidewalks. He noted that the plans also include plantings around THPRD parks, vegetated streams, mitigation and wetland enhancement areas. He reiterated that acorn-style type of lighting is proposed, rather than the standard shoebox type of style currently used within the City of Beaverton.

Mr. Ryerson recommended approval of BDR 2001-0094, the Type 3 Design Review application, based upon certain Conditions of Approval, noting that while this proposal had originally included an improvement of a path underneath the bridge connecting the Lowami Park and Vale Park, this connection has been terminated as THPRD has decided not to move forward with that particular connection.

Referring to TPP 2001-0006, the Tree Preservation Plan application, Mr. Ryerson observed that the both the applicant and the Project Advisory Committee has reviewed numerous road alignments and various alternatives throughout the process and made appropriate revisions. Noting that this proposal provides for the removal of two identified significant trees, specifically T-51, which is a Douglas Fir located on the southerly side of SW Hart Road, west of 155<sup>th</sup> Avenue, and T-52, which consists of two Douglas Firs which are also located on the southerly side of SW Hart Road at the 157<sup>th</sup> Avenue intersection. Additionally, removal of other trees within significant groves are proposed, including G-49, which is referenced as Girl Scout Camp on SW Hart Road, and G-85, which is referenced as south of SW Hart Road and east of 155<sup>th</sup> Avenue. He clarified that the Tree Preservation Plan specifically recommends the removal of 26 trees from Significant Grove G-85 (Vale Park), adding that while seven of these trees are deemed to be hazardous, the remaining 19 are located within the proposed roadway, bicycle, sidewalk or retaining wall. He mentioned that 10 trees within Significant Grove G-49 (Lowami/Hart Park) are proposed for removal, observing that three are considered hazardous, five are in poor condition, and two are located where a retaining wall has been proposed. He emphasized that the THPRD Board of Directors had approved the street improvements and removal of the ten trees in Lowami/Hart Park and the 26 trees in Vale Park. He pointed out that Significant Trees T-51 and T-52, which are located on the south side of SW



Hart Road would be located in the area of the proposed bicycle lane or street curb, emphasizing that the applicant is able to provide more detailed information regarding any of these specific trees and the rationale for their removal. Observing that Criterion 4 for Tree Preservation Plans includes ten different sets of criteria, he pointed out that staff has determined that Nos. 1, 2, 3, 4, 6 and 8 are applicable, adding that Nos. 5, 7 and 9 are not applicable. He mentioned that staff has agreed that the applicant's proposal would minimize the amount of construction disturbance necessary within Significant Groves G-49 and G-85, while conceding that because Significant Trees T-51 and T-52 are located along the shoulder of the curb of the SW Hart Road right-of-way, impacts to the trees due to the road improvements are unavoidable. He clarified that the proposal would necessitate the removal of 44 significant trees, within the project limits, as well as five outside of the project limits. He noted that with the specified Conditions of Approval, the impact to the two Significant Groves would be minimal. Pointing out that the proposal meets applicable criteria for the approval of a Tree Preservation Plan, he recommended approval of TPP-2001-0006.

Mr. Ryerson referred to the letter received from Gary Bliss, which was distributed prior to the meeting, adding that two additional communications should have been received as well. He mentioned a letter from Washington County Commissioner Dick Schouten, dated November 13, 2001, adding that a response, dated November 14, 2001, had been prepared by Engineering Director Tom Ramisch.

Mr. Ryerson discussed VAR-2001-0008, the Design Variance application, which proposes a variation of the requirement that all existing and proposed private utility lines shall be placed underground in accordance with the standards set forth in Chapter 60, Section 60.65 – Utility Undergrounding. He pointed out that the proposal would require the relocation of existing overhead utilities, specifically PGE, AT&T Cable and Verizon lines, adding that these lines, including PGE overhead power distribution lines, which are located along the north side of SW Hart Road, are required to be undergrounded. He mentioned that an existing 115 KV transmission line would not require undergrounding, as Section 60.65.15.1 states that the Oregon Public Utility Commission does not require high capacity transmission lines operating at 50,000 volts or above to be undergrounded. Observing that the scope of the Design Variance request is limited to the area where the SW Hart Road street improvements are proposed to occur, he noted that impacts to existing overhead utilities will occur, as the street will be widened along the length of the project to accommodate the width of the standard City three-lane collector street, including vehicle travel lanes, turn lanes, a median, bicycle lanes, sidewalks and planter strips. He pointed out that utilities required to be placed underground shall be those existing overhead utilities which are impacted by the proposed development and those utilities that are required to be installed as a result of the proposal.

Mr. Ryerson explained that the Variance request is to vary from the requirement to underground utilities the length of the project, adding that there are four

specific criteria that require findings, the most important of which is No. 2, which provides that compliance with the requirements or standards from which relief is requested does not merely constitute peculiarity, hardship or inconvenience. He pointed out that the applicant states that the request to vary from undergrounding requirements would have a detrimental effect on the City street funds and possibly the neighboring properties abutting the right-of-way where the utility lines are located. He mentioned that the project is funded by the Washington County's MSTIP 3 funds, which had been approved by the voters of the county, adding that the undergrounding of utilities had not been included within the scope of projects funded through MSTIP 3, as referenced in Exhibit No. 5. He referred to Criterion 2, which requires that a finding for approval not be solely based upon pecuniary consideration, and although undergrounding of the private utilities in this area appears to constitute a pecuniary hardship, staff has determined that the hardship of this request is not a self-imposed hardship by the applicant, but is in fact, for the design of the roadway improvement and funding was authorized through the county-approved MSTIP 3 funding and the City of Beaverton Street Fund, neither of which included undergrounding of utilities. He emphasized that the distribution formula of the undergrounding for SW Hart Road would not only involve additional funding, cutting back on additional improvements, or identifying a funding source to place the utilities underground, adding that it would involve a matter of the basic funding being tied to the street improvement project as part of a previous decision by Washington County voters, Washington County, and the Beaverton City Council, who have collectively determined the scope of the project, including the right-of-way improvements with no undergrounding of overhead utility lines. Recommending approval of VAR 2001-0008, he pointed out that staff has determined that the approval criteria has been met because the voters, the County and the City have determined the scope of the improvements to be performed and have previously allocated only those funds for authorized improvements, which does not include utility undergrounding.

Ms. Prentice expressed concern with the impact that not undergrounding utilities might impose upon the neighboring properties.

Mr. Ryerson advised Ms. Prentice that the applicant would address this issue, although he understands that the utilities would still be located within an existing or future right-of-way.

Mr. Straus referred to a hypothetical situation involving a potential developer with a similar project with existing overhead power lines and no funding for the undergrounding of utilities, and requested clarification of how the City of Beaverton would respond to a request for a variance to the undergrounding standards.

Mr. Ryerson informed Mr. Straus that the City would advise this developer that as a private development, the undergrounding is a requirement, emphasizing that

while utility undergrounding is a definite goal, a public improvement voted on by the voters of Washington County would have an opportunity to vary from this requirement.

Mr. Straus questioned whether public projects are not required to meet this undergrounding requirement.

Mr. Ryerson stated that while not all public requirements are allowed to vary from this undergrounding requirement, this situation involves a special circumstance in which the authorization of the funds from MSTIP 3 coming through the voters who had determined that these moneys would not apply towards utility undergrounding, which would not be included within the scope of the project. He further explained that a future public project would be required to address the applicable undergrounding requirements, adding that the applicants should appropriate funding accordingly.

Mr. Straus questioned whether utility undergrounding had been required at the time that this project had been approved by the voters.

Mr. Ryerson concurred, pointing out that while it had not been required at that time, utility undergrounding was optional.

Mr. Straus requested clarification of whether projects that evolve over a period of time are dictated by requirements at the time of the application. He questioned being bound by a vote that occurred five years ago and had nothing to do with the City of Beaverton.

Mr. Ryerson agreed that an application is governed by the existing Development Code at the time the application was submitted.

Mr. Straus questioned the legal premise on which staff can base their findings with respect to a vote that occurred in another jurisdiction, expressing concern with the potential lack of authority of the City of Beaverton.

Mr. Ryerson responded that he has no answer to this question, adding that this issue has been reviewed twice by the City Council, who had decided not to underground and to support the proposed application. Noting that Mayor Drake had attempted to allocate funding towards undergrounding of MSTIP projects, his efforts had been overridden by other individuals who had been involved.

Mr. Straus observed that there is obviously some interest regarding this issue on the part of the public, and questioned whether the Board even has the authority to address this issue.

Mr. Ryerson expressed his opinion that a very special circumstance is involved in that the Board has an opportunity to review all testimony and come to a decision with regard to this road project, based upon applicable criteria.

Mr. Straus observed that the Board had attempted this in the past, specifically involving Tri-Met with regard to the West Side Light Rail, adding that this had basically been shoved down our throats. He pointed out that after a while there is a tendency to quit trying to make a stand on things,

Referring to the utility lines, Mr. Ryerson commented that the Development Code does not require the high KV lines to be undergrounded, adding that there are 115 KV lines in the area, three of which would be associated with the proposal. He further clarified that with or without undergrounding, the poles associated with these lines would have to be moved. On question, he informed Ms. Prentice that because of the high KV lines, the utility poles would still be in place, and informed Chairman Lemon that while City Engineer Jim Brink could provide more detailed information, 47 properties along SW Hart Road would be impacted by the proposal.

#### **APPLICANT:**

**JIM BRINK**, City Engineer, introduced Priscilla Christenson, the Chairperson of the Project Advisory Committee and Rick Raetz, who is employed by Washington County and is the Design Engineer for the Hart Road Street Improvement Project. He also listed members of the Project Advisory Committee, some of whom were in attendance, including Ike McCarley and Rick Williams, representing the West Beaverton Neighborhood Association; Bryce Adkins and David DeHartport, representing the Sexton Mountain Neighborhood Association; Jerry Cambron, owner of the Summer Crest Plaza located on 165<sup>th</sup> Avenue; Eric Bullard, Manager of the Canfield Place Retirement Center; Bob Enninga, representing the Beaverton School District; Sarah Cleek, representing THPRD; Leo Baldwin, representing the Beaverton Bicycle Task Force; and Scott Knees, representing the Beaverton Traffic Commission. Observing that the City of Beaverton had cooperated with Washington County to create a design for this project, he also introduced Bill Hunter, Jim Perkins and Linda Wallard, all of whom represent Washington County in the design process of this proposal. He introduced Kevin O'Hara, representing *David Evans & Associates*, who provided a lot of the natural resource information; and Walt Knapp, the Project Arborist.

Mr. Brink described the SW Hart Road Project from 155<sup>th</sup> Avenue to Murray Boulevard as an implementation of one of the 27 projects within the Major Streets Transportation Improvement Program No. 3 approved in 1995 by the voters of Washington County. Observing that MSTIP is the primary funding source for the design and construction of the proposed project, he noted that the proposed design addresses the primary selection criteria that accompanied the ballot measure. He discussed the purpose of the project, adding that it would provide for

transportation options for cars, bicyclists, trucks, pedestrians and transit users, adding that it improves safety, addresses congestion problems, and that the City of Beaverton has identified the project as a high local priority. He pointed out that the project implements an element of the City's Street Improvement Plan, the Bicycle Master Plan and the Pedestrian Master Plan, as contained in the current Comprehensive Plan.

Observing that the project addresses several existing needs, Mr. Brink pointed out that the project provides safety for motorists by adding a left turn lane at all intersecting streets and accesses. He mentioned that the majority of accidents on SW Hart Road between 165<sup>th</sup> Avenue and SW Murray Boulevard, with the exception of the intersection of SW Hart Road and SW Murray Boulevard, are rear end type accidents that occur because those waiting to turn left must now wait in the through lane. He stated that safety for bicyclists and pedestrians would be improved with the addition of bicycle lanes, sidewalks and pedestrian island refuges, respectively, emphasizing that there are currently no refuges or bicycle lanes and very few sidewalks.

Mr. Brink described the main features of the project, which include concrete curb and gutter, with an asphalt wearing surface, as well as two 12-foot travel lanes and two five-foot bicycle lanes, as well as street trees in a five-foot wide planter strip, and two five-foot concrete sidewalks, either behind the planter strip, or curb tight, where applicable. He mentioned that the project would also include landscaping and irrigation, wetland and creek buffer mitigation sites, ornamental acorn-style street lights, upgraded water lines from 155<sup>th</sup> Avenue to Murray Boulevard, storm drains throughout, and a small amount of sewer improvement east of 152<sup>nd</sup> Avenue. He stated that the project also includes storm drainage detention and water quality facilities, as well as a traffic signal at 155<sup>th</sup> Avenue. He mentioned that the project provides for a bridge over Johnson Creek on SW Hart Road, and a box culvert on the tributary to Johnson Creek, on 155<sup>th</sup> Avenue. He mentioned that the proposal includes built-in photo-radar pads and ultra-block and keystone-type retaining walls, as well as numerous, but relatively small right-of-way impacts.

Mr.. Brink pointed out that many issues surfaced during the public involvement portion of the project, adding that these issues and responses to these issues are included in Exhibit 6 of the application and that this information is also included on the project website. Observing that seven major issues surfaced during the project design and public involvement process, as follows:

1. Five-foot wide sidewalks, rather than the standard six-foot wide sidewalks;
2. A 5-1/2 foot wide planter strip, rather than the standard 7-1/2 foot wide planter strip;

3. Impact to Significant Tree Grove Nos. G-49 and G-85;
4. Impact to Significant Tree Nos. T-51 and T-52;
5. Undergrounding of existing overhead utilities;
6. Vegetative screens for residences that would lose existing screens; and
7. A proposed traffic signal at the intersection of SW Hart Road and 160<sup>th</sup> Avenue.

Mr. Brink pointed out that the sidewalk and planter strip are addressed in the request for modifications of standards, adding that the impact to Significant Groves G-49 and G-85, and to Significant Trees T-51 and T-52 are addressed within the Tree Preservation Plan. He further noted that the utility undergrounding issue is addressed in the variance request, noting that the vegetative screens and the proposed traffic signal at SW Hart Road are addressed in the body of the land use application. Pointing out that both the Traffic Commission and the City Council have reviewed the traffic signal concerns at Hart Road/160th Avenue, he emphasized that the issue has been addressed with a Letter of Understanding between Washington County and the City of Beaverton.

Addressing some clarifications and corrections to the application, Mr. Brink discussed the removal of three significant trees, observing that this is described in the application plan but not in the application. He pointed out that there are three trees, one of which is T-51, and two associated with T-52, adding that these significant trees affected the recommended design of the proposal. He clarified that the recommended alternative for Segment "B" (160<sup>th</sup> Avenue to 155<sup>th</sup> Avenue) is referred to as Alternative No. 5, rather than Alternative No. 4. Observing that there are 47 affected properties from a right-of-way perspective, rather than 46, he pointed out that access to SW Hart Road would be from 12, rather than 11, residential driveways, three of which, not two, would serve THPRD properties. He discussed the underpass underneath the bridge, emphasizing that although it is shown on the bridge sheet, this 10-foot wide paved underpass has been eliminated from the proposal. Concluding, he stated that the proposal meets all relevant design requirements, with the exception of the utility undergrounding for which a Design Variance has been requested, adding that unless there are any questions, Priscilla Christensen would be providing testimony at this time.

Mr. Straus referred to a list of corrections to the applications, and requested clarification of whether staff has received this list, and whether they are included within the proposed Conditions of Approval or need to be addressed during the motion-making process.

Mr. Ryerson advised Mr. Straus that several of the issues Mr. Brink had discussed are already incorporated into the Staff Report, adding that some minor changes to the application may not have been incorporated into the document, adding that a copy of these revisions would be provided by Mr. Brink to be addressed during the motion-making process.

Mr. Brink provided a copy of the revisions for the use of the Board during the motion-making process.

**PRISCILLA CHRISTENSON**, Chairperson of the Project Advisory Committee, discussed the purpose of the Hart Road Project Advisory Committee, as well as who was involved and represented, emphasizing that their goal was to create a project that would be in the best interests of the community at large. She briefly summarized the procedures of the committee and provided a brief history of their efforts.

**RICK RAETZ**, the Project Design Engineer, provided a brief overview of alternatives with regard to this proposal, noting that the project had been divided into six logical segments, A through F. He mentioned that these six segments allowed for a closer focus and evaluation of the impacts of the proposed construction, adding that alternative designs were then developed for each individual segment. Observing that each of the segments provides for both Alternative 1 and Alternative 2, which were created and modified for each individual circumstance and issue.

Mr. Raetz pointed out that Alternative 1 for each of the six segments apply the City standards, including 74 feet of right-of-way, a 46-foot curb to curb section, and a planter adjacent to the six-foot sidewalk. Observing that the existing SW Hart Road is old and that numerous developments have occurred along this road over the years, he mentioned that SW Hart Road has a variable right-of-way. He clarified that it was apparent that Alternative 1 had the greatest impact on the majority of the properties. He explained that Alternative 2 had consisted of an attempt at a compromise to stimulate and consider options, and included a 70-foot right-of-way, with a 3-1/2 foot planter and a six-foot sidewalk, although it was determined that 3-1/2 feet would not be adequate for planters, at which point other alternatives were considered. He observed that reviewing these alternatives segment by segment would reveal both the advantages and disadvantages, adding that up to five alternatives had been created and reviewed in depth for each segment.

Noting that he would like to briefly walk through the recommendation for each segment, Mr. Raetz first discussed Segment A, which is the approximate area from SW 165<sup>th</sup> Avenue to SW 160<sup>th</sup> Avenue, adding that Alternative 4, including a 70-foot right-of-way, a five-foot planter strip and a five-foot sidewalk (except in the location where the historic birch trees have been preserved, where a six-foot

planter strip is provided), had been recommended. He emphasized that special care is being taken during construction to preserve those trees.

Referring to Segment B, Mr. Raetz mentioned that Alternative 5, including a five-foot planter strip, had been recommended, adding that there is quite a bank on the north side.

Mr. Raetz discussed Segment C, observing that Alternative 4 had been recommended.

Chairman Lemon requested clarification of whether the 70-foot right-of-way has been continued from Segment A through Segments B and C.

Mr. Raetz advised Chairman Lemon that Segment B provides for this 70-foot right of way and the standard 46-foot curb-to-curb.

Noting that Segment C is the area on SW 155<sup>th</sup> Avenue running south to north, from SW Middleton Court to SW Siletz Court, Mr. Raetz clarified that the south end crosses the tributary of Johnson Creek by Vale Park, parallels Vale Park and goes up the hill across SW Hart Road to the north up to SW Siletz Court. Observing that the grades there are quite severe and that there are some existing walls, he stated that Alternative 4, consisting of a 66-foot right-of-way and no planter strips, with a five-foot curb-type sidewalk on both sides, was selected.

Referring to Segment D, which is the area from SW 155<sup>th</sup> Avenue to SW 152<sup>nd</sup> Avenue, Mr. Raetz noted that Alternative 4, consisting of a 72-foot right-of-way, with a five-foot curb-tight sidewalk on the south side and a five-foot planter strip and a five-foot sidewalk on the north side, has been selected. He pointed out that this creates no right-of-way impacts and allows for the minimization of impacts to Vale Park along the frontage and allows needed plantings to be placed along the sidewalk and in the sloped areas. He mentioned that it had been determined that street trees are not appropriate along Vale Park, which is a natural area, adding that natural plantings would be preferred.

Mr. Raetz discussed Segment E, which is the area from SW 152<sup>nd</sup> Avenue to SW Forest Drive west, observing that Alternative 5 had been selected. He pointed out that the right-of-way varies from 68-feet to 72-feet, adding that there would be a five-foot curb-tight sidewalk on both the north and south sides, and that the proposal shifts the centerline to the south, in order to minimize impacts to Lowami Woods. He pointed out that retaining walls have been proposed in order to preserve trees, as required, adding that this would allow the existing power lines to remain in their current location and minimize the impacts to the significant grove in the Lowami Woods.

Mr. Raetz discussed Segment F, with is the area from SW Forest Drive west to SW Forest Drive east that tie into the improvements that were completed with SW



Murray Boulevard on SW Hart Road. Noting that Alternative 3 had been selected. This alternative provides for a 67-foot right-of-way, with curb-tight sidewalks on the north side and a five-foot planter strip and a five-foot sidewalk on the south side. He pointed out that the five-foot planter strip had been proposed in order to minimize right-of-way impacts on the adjacent properties, adding that this segment creates minor impacts on four properties.

Concluding, Mr. Raetz offered to respond to questions or comments.

Chairman Lemon requested clarification that the right-of-way starts out at approximately 67 feet and gets wider to the west.

Mr. Raetz clarified that the right-of-way proposal is basically a best fit, adding that it is variable and is minimized on the open space areas, adding that from the centerline, it ranges from 28-feet up to the City standard of 37 feet, depending upon when certain developments along the route had been conditioned.

Chairman Lemon questioned whether the letter from Gary Bliss, dated November 13, 2001, regarding the request for a variance for utility undergrounding had been reviewed

Mr. Brink advised Chairman Lemon that he has reviewed this letter.

Chairman Lemon mentioned that the estimated cost for the utility undergrounding is approximately \$500,000, and questioned how this amount had been determined.

Mr. Beighley questioned whether we are comparing apples to apples.

Expressing his opinion that we are comparing apples to apples, Mr. Brink explained how he had come up with the estimate of \$482,557.32, adding that this had been based upon comparisons from the results of the Henry Street/Rose Biggi Avenue Project and the Millikan Way Extension Project, both of which included undergrounding.

Chairman Lemon stated that architects and engineers encounter problems with taking unit prices from bid projects, observing that contractors unbalance their pricing and that undergrounding would involve additional fees and overhead costs.

Mr. Straus expressed concern with putting off this undergrounding, and questioned whether it is likely that it would be done at some future time, emphasizing that it would be more costly to rip up the streets in order to do it later.

Observing that the cost of undergrounding at a later date obviously depends upon when that later date occurs, Mr. Brink emphasized that it would be extremely

difficult to accurately estimate this cost. He pointed out that due to leaving a corridor to accommodate a 36-inch water transmission line that is not related to this project but designed into the project for future installation, SW Hart Road is getting pretty crowded. He explained that underneath the north sidewalk is basically available for future undergrounding, adding that while there would be considerable damage to the north side of the street, the installation could occur without having to tear up the entire street. Noting that there are some lateral street crossings, he mentioned that PGE has indicated a willingness to work with staff on this issue.

Mr. Beighley questioned the cost of moving the PGE poles.

Observing that this would be fairly expensive, Mr. Brink pointed out that it would be necessary to move all of the PGE poles, adding that PGE would be responsible for the expense of moving the poles in order to accommodate the design and preserve certain trees.

8:42 p.m. to 8:50 p.m. – break.

#### **PUBLIC TESTIMONY:**

**EUGENE DRAMBARIAN** explained that he owns property on SW Hart Road and would like to express his concerns with several issues, specifically the safety of his property and family, the design of the project, and the necessity of giving up some of his private property to accommodate a tree that is associated with the project. He pointed out that he would lose property that is necessary to turn vehicles around within his property, making it necessary for him to back out onto SW Hart Road, which he does not consider safe. He expressed his opinion that his property would be devalued, adding that the removal of an ugly tree on his property is justified. Concluding, he expressed his appreciation for any consideration that is given to his concerns, noting that with no clear idea of how the design would look, it is difficult to visualize the total impact.

Chairman Lemon questioned whether additional information is available regarding the elevations.

Mr. Drambarian emphasized that the current design would make it necessary to back downhill directly into the 35 mph traffic on SW Hart Road to exit his property, adding that while his driveway currently extends fifty feet from his garage to the property line, the potential loss of approximately ten feet would make it impossible to turn around within his own property.

Chairman Lemon questioned whether Mr. Drambarian has any suggestions that might resolve his issues.

Mr. Drambarian informed Chairman Lemon that an alternative elevation within the design might be more appropriate, as well as alternate designs for the retaining

wall, sidewalks and fence. He suggested that the retaining wall should be made out of concrete, observing that it is less expensive and would allow him to put his fence directly on the concrete wall.

Chairman Lemon pointed out that he believes that the keystone block would be used for the retaining wall.

Mr. Drambarian discussed a type of retaining wall with forms inside, adding that the end result is a brick-type appearance. He emphasized that this retaining wall would affect his property, noting that he would like it to be located on the property line. On question, he advised Chairman Lemon that he currently has a chain-link type fence with special evergreen-colored slats, as well as a gate over the driveway, adding that the gate would be difficult and dangerous to use with a steeper driveway. He explained that it would be necessary to design and construct a new gate to provide adequate protection for his property.

**GARY BLISS** discussed his concerns with the proposed variance, emphasizing that he would like to see the utilities undergrounded, adding that in a previous conversation, Mayor Drake had indicated that there was a possibility of obtaining adequate funding for Mr. Bliss' alternate suggestion, which was to merely put conduit in the ground to establish an avenue for future undergrounding. Referring to a communication he had submitted regarding this issue, he pointed out that the Development Code provides that "irrespective of who the owner is, with a development, the overhead wires shall be undergrounded." He mentioned that he is aware that any wires over 50 KV are allowed to remain hanging or be airborne, adding that he also understands that the utility poles would remain. He pointed out that his concern is with a mockup that he has reviewed depicting what these proposed improvements would look like, including the sidewalks, paving, curbs, landscaping, street lights and eight wires hanging in the air and draping through or slightly above these new improvements, emphasizing that this is not his idea of proper planning and that this would not be considered acceptable for any private development.

Mr. Bliss referred to Criteria No. 1, expressing his opinion that it does not apply because there is no provision for any preservation, mitigation or enhancement of any significant or natural feature, wetland, wildlife or vegetation, adding that no historic or significant buildings are being preserved. He pointed out that granting the variance would not be in harmony with the objective of this ordinance, noting that the variance would be detrimental to the welfare of the public, at least from a monetary standpoint. He emphasized that it is not necessary or advisable to wait ten or more years to underground these utilities, noting that once the improvements are in place, the concrete is dry and vehicles are traveling on this road, the cost to underground these utilities would increase significantly. He explained that because it would be necessary to install, remove and reinstall these utilities, the cost would triple, and the undergrounding would not be done. He expressed his opinion that it is not fair to the public to ignore the fact that these

utilities would never be undergrounded, pointing out that the statute does not allow consideration for a monetary hardship or inconvenience. Referring to Development Code Section 40.35.15.2.D.9, which provides that utilities shall be undergrounded, he mentioned that this variance is for a use that is actually not permitted within this district, adding that because the City of Beaverton adopted this ordinance, the situation is actually self-imposed.

Mr. Bliss emphasized that a private developer would be required to provide for this undergrounding, adding that merely providing for his suggested avenue for future undergrounding, without vaults, would cost approximately \$162,580, observing that his estimates and Mr. Brinks' estimates did not differ to any large extent. He mentioned that his estimate for both PGE and GTE is \$86,800, noting that comparable costs by the City of Beaverton came to \$83,500. Concluding, he emphasized his opposition to the variance, as requested, and offered to respond to any questions or comments.

Mr. Straus questioned how Mr. Bliss had determined the number of conduits that would be necessary to accommodate his proposal.

Mr. Bliss observed that he had estimated the necessary number of conduits differently than Mr. Brink, noting that there may be an error in calculating the number of conduits necessary to accommodate the various cable providers and services. He pointed out that the cable providers rely upon being permitted to place their conduit within a utility trench that has been provided, emphasizing that they do not pay for using this trench and that this could save approximately \$68,000. He suggested the possibility of discussing this with Mr. Brink and trimming the costs significantly.

Mr. Edberg questioned whether the proposed route for the conduit is underneath the sidewalk of the north side.

Mr. Bliss clarified that the conduit could be located underneath the sidewalk of either side of SW Hart Road, although the existing overheads are already located on the north side. He mentioned that the City of Beaverton is also providing for a 36-inch storm drain under the sidewalk of the north side, suggesting that it would not be difficult to install the cable on the south side in order to avoid creating a conflict.

Mr. Edberg questioned the feasibility of placing the conduit without providing the pull boxes and vaults and whether they could be installed at a later time.

Mr. Bliss informed Mr. Edberg that the pull boxes and vaults could be installed at a future time, adding that the vaults would be installed under the sidewalk and that this is provided for in the plan and would create no impact when they are finally installed.

On question, **WALTER KNAPP** advised Chairman Lemon that he filled out the yellow card in order to testify later, as the project arborist.

**GREGORY KURAHASHI** mentioned that he has been involved in utility placement and would like to respond in support of granting the variance request. He described the difficulties he had encountered while attempting to place conduits related to various projects he had been involved with in the past, emphasizing that it is not easy to coordinate every aspect of such a project without creating any impact to adjacent properties. He discussed undergrounding requirements and other revisions that are necessary in order to meet applicable standards, emphasizing that some property owners might object to impacts to their property, as well as revisions that may be required of them. He described difficulties encountered while attempting to make the vault connections match properly, as well as additional costs that might be incurred.

Mr. Straus questioned whether it would be easier to perform some of this work before or after the roadway is completed.

Mr. Kurahashi mentioned that another issue involves conduits owned and provided by other agencies, pointing out that it is not feasible to leave the trench open for the length of time it takes for four separate companies to come and install their conduits within the trench. He emphasized that it is more difficult and costly to keep the trench open and maintain it and keep it safe than to cover it up between installations.

#### **APPLICANT REBUTTAL:**

Mr. Brink referred to Sheet 2B40, which shows the Drambarian's proposed driveway, adding that prior to discussing the specific details regarding this proposal, he would like to reiterate that the significant impacts to this property, as determined by the Project Advisory Committee (PAC), were primarily instrumental in their reconsideration of Alternative No. 4, which had been previously approved. He mentioned that after the property was staked and after visiting the site and determining the impacts to the driveway, the PAC had reconsidered and basically changed their mind, recommending Alternative No. 5, which provides the narrowest section in front of the Drambarian property, as well as all of the adjacent properties. He further explained that all of the proposed improvements could be considered public improvements, allowing for installation within existing right-of-way, as recommended by the PAC. He pointed out that there would still be some impact to the driveway, observing that the existing driveway begins at the edge of the existing asphalt, which is located well within the public right-of-way. He explained that by the time the center turn lane, bicycle lane and sidewalks are added, existing right-of-way is being utilized, which ends up closer to the Drambarian's property. Observing that the design team had provided three options, he mentioned that he had discussed these options with Mr. Drambarian and selected what he referred to as the "least severe

slope” of 19%. He emphasized that there would be significant impact to the Drambarian property, noting that it is necessary to construct the driveway in a way that also achieves what is provided for in the plan. He clarified that the entire driveway would be basically reconstructed, noting that this is necessitated by the location of the garage. He expressed his opinion that the applicant has provided for the best possible slope under the circumstances, adding that further consideration would be given to the location of the retaining walls and the possibility of providing a turn-around area within the Drambarian’s driveway.

Chairman Lemon referred to the gravel area within the Drambarian property, specifically whether the applicant is attempting to create an area in which vehicles can turn around and access SW Hart Road without backing out down a steep grade and into traffic.

Mr. Brink advised Chairman Lemon that the applicant is attempting to provide access onto SW Hart Road from the Drambarians without making it necessary for them to back out into traffic.

Mr. Lemon emphasized that he is referring to the Drambarian’s everyday activities, rather than a large amount of vehicles that may be there for Thanksgiving dinner or a party.

Mr. Brink assured Chairman Lemon that this is exactly what the applicant is attempting to achieve, specifically the maneuvering area for the Drambarians to turn around within their driveway and access SW Hart Road without backing out into traffic.

Mr. Raetz commented on the redesign process, observing that they had revised the vertical curve and raised it approximately one foot and adding that the retaining walls illustrated on the diagonal are to achieve the City of Beaverton’s requirements. He pointed out that Mr. Drambarian’s existing gate and fence are located within the existing public right-of-way, rather than on his own private property. Expressing his opinion that the proposal would make exiting the Drambarian property safer, he observed that the sidewalk and bicycle lane would be relatively flat and provide some buffering.

Noting that the profile is adequate, Mr. Straus expressed some confusion with the grading and utility plan that reflects a rather abrupt slope behind the sidewalk, rather than what is shown on the profile.

Mr. Brink pointed out that the driveway grading is not included on the grading plan.

Mr. Straus advised Mr. Brink that it would be necessary to change the grading plan to reflect the profile and questioned whether the fence would be replaced.

Noting that the fence would be replaced, Mr. Raetz stated that the wall would be addressed first. He referred to Sheet 7-A, which illustrates the Site Plan, including the retaining walls, noting that the fence would have to be relocated to the property line or on Mr. Drambarian's property, rather than within the public right-of-way.

Mr. Straus questioned whether the gate across the width of the driveway would also be replaced.

Mr. Raetz informed Mr. Straus that this involves a right-of-way issue, adding that this gate would typically be replaced. He pointed out that negotiations with the property owner regarding the fences would be necessary.

Mr. Straus suggested that this could also be a Condition of Approval, observing that it would be appropriate to locate the gate far enough from the sidewalk to allow for a vehicle to stop to allow someone to get out to open the gate.

Mr. Raetz requested clarification of whether Mr. Straus intends for this vehicle that stops to allow for the gate to be opened to actually clear the bicycle lane and sidewalk as well.

Mr. Straus informed Mr. Raetz that he would expect this vehicle to be able to stop in an area that leaves both the bicycle lane and sidewalk clear.

Chairman Lemon expressed his opinion that the final location would have to be negotiated with the property owner, emphasizing that certain regulations apply. He mentioned that it would not be permitted for a vehicle to be located three quarters of the way out into traffic while stopping to open this gate, adding that the vehicle must be safely out of the traffic flow.

Mr. Straus stated that this could be provided for within a Condition of Approval.

Chairman Lemon referred to the situation with the proposed variance, specifically comments made with regard to the poles remaining no matter what happens and the cables remaining for a certain period of time.

Mr. Brink referred to the traffic signal at SW 160<sup>th</sup> Avenue and SW Hart Road, emphasizing that the City of Beaverton had not endorsed this \$150,000 to \$180,000 expenditure. He explained that because it was not currently warranted, both the Traffic Commission and the City Council had disapproved this item, emphasizing that the funding is not actually available and there are major conflicts regarding the cost.

Chairman Lemon clarified that because cost is not included in the applicable criteria for design review, the Board is concerned with appearance, rather than financial issues.

Mr. Brink stated that he would discuss the implementation of undergrounding, rather than funding, observing that the utilities had not been undergrounded in the recent Davis Road Project. He pointed out that the major difference between the projects is that the Development Code has been revised to provide for the undergrounding of utilities, expressing his opinion that it is not actually necessary or more important for SW Hart Road than it had been for Davis Road. He discussed the proposed installation of the conduits, observing that such a project should be totally completed or not done at all.

**JERRY CAMBRON** mentioned that since this was not part of the funded package, it would be necessary to allow the citizens the opportunity to vote to fund this project, adding that this would involve approximately two more years.

Chairman Lemon emphasized that regulations had changed since the initial vote.

Mr. Brink observed that adding two years to the project would basically eliminate any cost savings, adding that this would also create issues among the residents of SW Hart Road, who are anxious for completion of the project.

Mr. Straus questioned whether there is an alternative option available for developers who prefer not to underground utilities.

Mr. Ryerson advised Mr. Straus that the Development Code does site a “fee in lieu of” payment option.

Mr. Straus pointed out that while the public vote might not have included the utility undergrounding, the “fee in lieu of” payment option was most likely not mentioned as well. Expressing his opinion that this option needs to be addressed, he pointed out that he is not comfortable with granting this variance without considering this issue. He noted that he is confused with the proposed locations for traffic signals, including which were originally proposed and which were added or deleted.

On question, Mr. Ryerson informed Mr. Straus that there would be a traffic signal at the intersection of SW Hart Road and SW 155<sup>th</sup> Avenue.

Mr. Brink advised Mr. Straus that the scope includes the conduit for a future signal at the intersection of SW Hart Road and SW 160<sup>th</sup> Avenue and the intersection of SW Hart Road and SW 165<sup>th</sup> Avenue. He also informed him that there is a provision for laterals to be installed across the width of the right-of-way to allow for future electrical undergrounding from one side of the road to the other, although this is not indicated on the drawings.

Mr. Straus questioned whether it would be appropriate to include a Condition of Approval requiring that laterals be installed at some defined spacing or just rely on PGE to assume this responsibility and fulfill this requirement.



Mr. Brink informed Mr. Straus that the laterals he is referring to are actually existing lines that already have PGE wire in them, adding that the City of Beaverton can not require PGE to provide laterals at future locations at their own expense.

Mr. Straus suggested a Condition of Approval requiring all laterals crossing the right-of-way to be undergrounded.

Mr. Brink advised Mr. Straus that it would be necessary for the utility providers to provide and fund this work voluntarily, emphasizing that he does not believe that the City of Beaverton has the authority to require them to do this at their own expense, although the project itself could include this Condition of Approval. He pointed out that it would be a reasonable approach to require undergrounding of all laterals crossing the right-of-way for this particular project.

Mr. Ryerson referred to Mr. Straus' question regarding the "fee in lieu of" payment option, noting that Section 60.65 does address this issue, although this would be reviewed through the Facilities Review process.

Mr. Straus questioned why the "fee in lieu of" payment option had not been addressed earlier in the process.

Mr. Ryerson informed Mr. Straus that no request for the "fee in lieu of" payment option had been requested, noting that the project would have to meet one of three specific criteria, which could be an issue.

Mr. Straus questioned the possibility of including a Condition of Approval requiring that the "fee in lieu of" payment option be considered.

Mr. Ryerson advised Mr. Straus that the Public Hearing would have to be continued in order to adequately address the "fee in lieu of" payment option, observing that Facilities Review would have to review the issue. He pointed out that the applicant should have the opportunity to discuss this issue with the development team, adding that he is not certain that the project would even meet applicable criteria. He pointed out that the applicant would like to move forward this evening, emphasizing that they would prefer not to continue the variance request at this time.

The public portion of the Public Hearing was closed.

Mr. Straus **MOVED** and Mr. Edberg **SECONDED** a motion for the approval of TPP 2001-0007 – Hart Road Street Improvement Tree Preservation Plan (Significant Trees), based upon the testimony, reports and exhibits presented during the public hearings on the matter and upon the background facts, findings

and conclusions found in the Staff Report dated November 8, 2001, including recommended Conditions of Approval Nos. 1 through 4.

The motion was called and the motion **CARRIED**, unanimously.

Mr. Straus requested clarification of whether the issue of lateral undergrounding would be addressed through the Variance or the Design Review.

Mr. Ryerson informed Mr. Straus that the lateral undergrounding issue is associated with the Variance.

Mr. Straus **MOVED** and Ms. Prentice **SECONDED** a motion for the approval of VAR 2001-0008 – Hart Road Street Improvement Design Variance, based upon the testimony, reports and exhibits presented during the public hearings on the matter and upon the background facts, findings and conclusions found in the Staff Report dated November 8, 2001.

1. All electrical and telecommunication lines currently overhead crossing the Hart Road right-of-way shall be undergrounded, excluding high capacity electric lines operating at 50,000 volts or above.

On question, Mr. Straus clarified for Mr. Ryerson that the lines are to be undergrounded, as opposed to the installation of the conduits.

On question, Chairman Lemon clarified for Ms. Prentice this addresses the lines crossing Hart Road from the north to the south, rather than parallel to the road.

The question was called and the motion, as clarified, **CARRIED**, by the following roll call vote:

Ayes: Edberg	Nay: Beighley
Lemon	
Prentice	
Straus	

Mr. Straus **MOVED** and Mr. Beighley **SECONDED** a motion for the approval of BDR 2001-0094 – Hart Road Street Improvement Type 3 Design Review, based upon the testimony, reports and exhibits presented during the public hearings on the matter and upon the background facts, findings and conclusions found in the Staff Report dated November 8, 2001, including recommended Conditions of Approval Nos. 1 through 20, and adding conditions, as follows:

21. The list of corrections provided by the applicant in this item, which shall be identified as Exhibit No. 4, shall be incorporated into this land use order.

22. At the property address 15675 SW Hart Road, there shall be provision made for maneuvering a car within the revised driveway so that it can be driven front first off the property. There shall be a gate located a minimum of twenty feet behind the new sidewalk, and new fencing shall be provided in a location agreed upon between the applicant and the property owner at that address connecting to the gate and extending to the east and west property lines of the property. The grading plan shall be modified to reflect the profile drawing of the driveway shown on 2B40.

Ms. Prentice questioned whether the gate is actually required.

Mr. Straus pointed out that the location of the gate is based upon normal City requirements to allow for a vehicle to pull off in a safe position within a driveway.

Ms. Prentice reiterated that she is not certain that a gate is actually necessary.

Referring to the existing gate, Mr. Straus indicated that it appears that the property owner desires a gate.

Chairman Lemon commented that it could be determined during negotiations that a gate is neither desired nor necessary.

Mr. Straus clarified the motion for Condition of Approval No. 22, as follows:

22. At the property address 15675 SW Hart Road, there shall be provision made for maneuvering a car within the revised driveway so that it can be driven front first off the property. ~~There shall be~~ **If it is determined that** a gate **is necessary, it shall be** located a minimum of twenty feet behind the new sidewalk, and new fencing shall be provided in a location agreed upon between the applicant and the property owner at that address connecting to the gate and extending to the east and west property lines of the property. The grading plan shall be modified to reflect the profile drawing of the driveway shown on 2B40.

Mr. Straus emphasized that the intent is for the homeowner to end up with the same features as are currently on the property, specifically a fence across the front and a gate at the driveway. He pointed out that the property owner has the choice and option of negotiating with the developer of the project, adding that it is not the responsibility of the Board to actually design the project.

Mr. Edberg expressed his opinion that the twenty-foot requirement should be eliminated, adding that this would allow the developer more flexibility.

Mr. Straus pointed out that this requirement stipulates a twenty-foot minimum.

The question was called and the motion, as clarified, **CARRIED**, unanimously.

**APPROVAL OF MINUTES:**

The minutes of October 11, 2000, as written, were submitted. Chairman Lemon asked if there were any changes or corrections. Mr. Beighley **MOVED** and Mr. Edberg **SECONDED** a motion that the minutes be adopted as written and submitted.

The question was called and the motion **CARRIED** unanimously, with the exception of Mr. Straus, who abstained from voting on this issue.

**MISCELLANEOUS BUSINESS:**

The meeting adjourned at 10:32 p.m.